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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,529

03/10/2004

Jim Bumgardner

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ROPES & GRAY LLP  
PATENT DOCKETING 39/361  
1211 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036-8704

EXAMINER

MARANDI, JAMES R

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/708,529	<b>Applicant(s)</b> BUMGARDNER ET AL.	
	<b>Examiner</b> JAMES R. MARANDI	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8,9,11-14,16,17,19-22 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to applicant's amendment filed on May 16<sup>th</sup> 2008. Claims 1, 3-6, 8, 9, 11-14, 16, 17, 19-22, and 24 are still pending. Claims 2, 7, 10, 18, 23, and 25-27 have been cancelled.

- In light of applicant's amendments and cancellation of claims in the instant, and copending application of 10/605,246 , Provisional rejections of offending claims under 35 USC § 101, as reflected in Office action of 12/17/2007, is hereby withdrawn.

### ***Response to Arguments***

Applicant's arguments with respect to claim 1, 9, 16, and 17 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 8, 9, 11-14, 16, 17, 19-22, and 24 are rejected under U.S.C § 103(a) as being unpatentable over Cheng et al, European Patent Application EP1355496 (hereinafter "Cheng"), In view of M.A. Dovi, US Patent Application Publication No. 2002/0184451 (hereinafter "Dovi").

Regarding claim 1, Cheng discloses **a method for using a network of set-top boxes** (Fig. 1, 110), **comprising:**

**connecting at least a first (114) and a second set-top box (116) in a network (110);**

**making a first storage device included in said first set-top box available to said network** (¶ [30], as computing device set-top box has storage, once networked the storage is available to the network);

**making a second storage device included in said second set-top box available to said network** (¶ [30], as computing device set-top box has storage, once networked the storage is available to the network);

Cheng does not explicitly disclose  
**receiving a command in said first set-top box which requires at least one of said first and second storage devices; and**  
**using said at least one of said first and said second storage device in response to receiving.**

However, Dovi, in an analogous art, substantially discloses:  
**receiving a command in said first set-top box which requires at least one of said first and second storage devices; and**  
**using said at least one of said first and said second storage device in response to receiving.** (Fig. 1, ¶ [9]- [11])

Therefore, it would have been obvious, to one skilled in the art, at the time of invention, to modify the system of Cheng with Dovi's invention to share storage resources of networked set-top boxes (as Cheng disclosed for shared tuner resources).

Regarding claim 3, Cheng does not explicitly disclose **wherein said first set-top box uses said first storage device if available, and attempts to use said second storage device if not available.**

However, Dovi, in an analogous art, substantially discloses **wherein said first set-top box uses said first storage device if available, and attempts to use said second storage device if not available.** (§ [16]-[18])

Therefore, it would have been obvious, to one skilled in the art, at the time of invention, to modify the system of Cheng with Dovi's invention to share storage resources of networked set-top boxes for best utilization of available storage space on set-top boxes.

Regarding claim 4, Cheng does not explicitly disclose **wherein said first set-top box determines whether said first storage device or said second storage device has more space available and uses the one of said first and second storage device that has more space available.**

However, Dovi, in an analogous art, substantially discloses **wherein said first set-top box determines whether said first storage device or said second storage device has more space available and uses the one of said first and second storage device that has more space available.** (§ [16]-[18])

Therefore, it would have been obvious, to one skilled in the art, at the time of invention, to modify the system of Cheng with Dovi's invention to share storage resources of networked set-top boxes for best utilization of available storage space on set-top boxes.

Claims 5 and 6 are rejected by the same analysis as claim 1, as in the purview of the users of a system of set-top-boxes, the "show" is type of application (the same a sin computing environment).

Claim 8 is rejected by the same analysis as claims 1,5, and 6.

Claims 9, and 11-14, a network of set-top boxes effectuating the method claims of 1, 3-6, and 8 are rejected by the same analysis.

Claims16, the networking means of set-top boxes of claim 1 is rejected by the same analysis.

Claims 17, 19-22, and 24, computer code effectuating the method claims of 1, 3-6, and 8 are rejected by the same analysis.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **Contact Info**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. MARANDI whose telephone number is (571)270-1843. The examiner can normally be reached on 8:00 AM- 5:00 PM M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Marandi/

/Hunter B. Lonsberry/  
Primary Examiner, Art Unit 2623